

**BEFORE THE MADURAI BENCH OF MADRAS HIGH  
COURT**

**Dated: 19/10/2010**

**CORAM**

**The Hon'ble Mr.Justice K.CHANDRU**

**Cont Petition (Md) No.414 of 2010**

**A.Kanagaraj ... Petitioner**

**Vs**

**Mr.S.Ramakrishnan,**

**The State Chief Information Commissioner,**

**The State Information Commission,**

**O/o.The State of Information Commission,**

**Kamadenu Super Market, 1st Floor,**

**No.378, Anna Salai,**

**Teynampet, Chennai. ...Respondent**

**Contempt Petition filed under Section 11 of Contempt of  
Courts Act to punish the respondent for willful disobedience  
for the order passed by this Honourable Court in  
W.P.(Md)No.609 of 2010 dated 20.01.2010.**

**!For Petitioner ... Mr.K.Srinivasan**

**^For Respondent ... Mr.S.C.Herold Singh,G.A.**

:ORDER

This contempt petition is filed for the alleged disobedience of the order passed by this Court in W.P.(Md)No.609 of 2010 dated 20.01.2010.

2. The writ petition came to be filed by the petitioner seeking for a direction to the first respondent (Tamil Nadu State Information Commissioner) to pass orders on Second Appeals in Case Nos.520, 521, 524 and 868 of 2009 on the file of the Commission within the time limit stipulated by this Court.

3. The writ petition came to be disposed of even at the admission stage and without notice to the Tamil Nadu State Information Commission. Though, in the order, it was stated that one D.Sasikumar, learned Government Advocate took notice, it is admitted that the Government Advocate only represent Government Offices, who were arrayed as parties as R2 to R5. The Tamil Nadu State Information Commission has no Standing Counsel and no notice was issued to them regarding the pendency of the so called second appeals filed by the petitioner.

4. It is the case of the petitioner that he sought for certain information from the District Collector and since required information was not furnished, he filed an appeal before the Appellate Authority. Since no orders were passed on the appeals, second appeals were preferred before the Information Commission. It was claimed that hearing date was fixed on 17.08.2009 and the respondents did not appear, but yet no orders were passed by the Information Commissioner. Therefore, the direction was issued to the Commission to pass orders within a period of three months from the date of receipt of the copy of the order.

5. The petitioner has come forward to file the present contempt petition since no orders were passed by the Information Commissioner as directed by this Court. To a query made by this Court, Mr.S.C.Herold Singh, the learned Government Advocate stated that the Government Pleader's Office takes notice only for the Government Department including Information Office or the Appellate Authority, if any, nominated by the Government Department and not for any other authorities whom they have no right to represent.

6. It must be stated that any order passed by the Information Commission can be judicially reviewed by this Court as held by this Court in *The Tamil Nadu Public Service Commission v. The Tamil Nadu Information Commission* reported in 2010 (2) CWC 385. In Paragraph 14.1 of the order, it was observed as follows:- "14.1. ...Therefore, judicial review is permissible against the order of the Information Commission. If the order passed by the Information Commission is contrary to the RTI Act, the aggrieved Public Authority can question such information. "

7. In the present case, it is not against the order of Commission the petitioner came before this Court. He sought for a direction to the Information Commission to pass orders on the appeal filed by him. The Information Commission receives innumerable requests from various aggrieved parties. The Commission is a multi-member body and has to arrange its own business dealing with those appeals. Even if there has been any unreasonable delay, if a party approaches this Court, then the Commission must be put on notice before fixing a time limit for the Information Commission to hear those appeals either expeditiously or out of turn by jumping the queue. In such cases, the petitioner must make out a case for a deliberate delay dealing with those appeals and that the particular appeal of the aggrieved petitioner must be so important that in public interest such direction can be given. A writ of mandamus is issued to a public authority including a quasi-judicial authority to do a statutory obligation or to refrain from performing an act contrary to the Statute. Unless it is proved that the Commission did not discharge its obligation, no direction can be issued to the Commission by this Court and even if any such direction is to be issued, the same cannot be done without notice to the Commission. When the Government Advocate has no right to represent the Commission and only represent the Government Department and Information Offices appointed by such Department, no direction should have been issued to the Commission.

8. Infact, the Tamil Nadu State Commission itself had made a request that in the writ petitions entertained by this Court when the Information Commission is made as a party, they are unable to represent the Commission as no Standing Counsel has been provided for the Commission. It was also stated that Commission being a quasi-judicial body, once passed an order, the order itself should speak for itself and it is unnecessary for the Commission to defend its order when a writ of certiorari is filed before this Court.

9. Keeping this request and anguish of the Commission in mind, this Court declared that when an order of the Tamil Nadu Information Commission is under challenge, Information Commission need not be made as a party to those proceedings and even if counsels make them as a party, in the array of parties, they should be struck off from the writ petition. It is also indicated that all that this Court can do is to make a copy to the Information Commission either interim or final order, so that the Commission follow the same as a legal precedent.

10. Since the petitioner has not made out any case for hearing an out of turn second appeal and the Commission has its own arrangement of disposing of matters and even if any direction should be given, it should be given only after notice to the Commission. In the present case, the contempt petition filed by the petitioner is misconceived. For establishing a violation of an order of this Court, the petitioner must establish a willful disobedience and there is no averment that the Commission has committed any willful disobedience in not obeying an ex-parte order passed by this Court.

11. In the fitness of things, it is only requested that the Commission should arrange its business in such a way they should pass appropriate orders on appeals without any unnecessary delay.

12. In the light of the above, this Court is not inclined to pursue the contempt. Hence, this contempt petition stand closed. No costs.

Svki